

**REMARKS**

At the outset, it is noted that the amendments to the claims in this Response result in presentation of claims very similar to those of the issued ancestor, U.S. Patent No. 6,312,734, with the exception of the absence of recitation of a molar equivalent ratio of a glutathione-based compound and a metal material of between about 3000:1 to about 1:1 in the instant claims. A terminal disclaimer over 6,312,734 is filed herewith (as discussed below).

Specifically, the status of the parent applications, as recited in the specification, have been updated, including a priority claim to a Russian application, which was previously noted on the Patent Office Updated Filing Receipt and the Inventors' Declaration.

Independent claims 1, 27, 52, 77, and 80 have been amended to recite that the oxidized glutathione-based compound is selected from the group consisting of a formula (as shown in the claims) and salts of the formula. Support for this amendment can be found in the specification, for example, on page 9, line 22, to page 10, line 9. Claims 9 and 36 have been correspondingly cancelled. Claim 10, which depended on claim 9, has been rewritten to depend from claim 1.

Claims 1, 52, 77, 80, and 137 have been amended to delete the term "in a molar equivalent ratio of between about 3000:1 to about 1:1." Claims 81-83 have been correspondingly cancelled without prejudice or disclaimer.

In claim 6, the dependency has been changed to claim 5 to provide antecedent support, as suggested by the Examiner.

Claim 48 has been amended to replace "1 about" with "about 1."

Claims 72 and 74 have been amended to clarify that the percentages recited are percentages by weight/volume.

Claim 77 has been amended to recite "administering the composite to a subject having a disease."

In claim 96, the term ", sepsis" has been deleted.

In claim 103, the term "selected from the group consisting of" has been deleted.

No new matter has been added by any of these amendments. Claims 1-8, 10-35, 37-80, and 84-137 are now pending for examination.

Rejections under 35 U.S.C. §112, ¶2

Claims 1-8, 26, 27, 30-35, 37-83, 96, 118-126, 135, and 136 have been rejected under 35 U.S.C. §112 ¶2, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

The Patent Office has rejected the terms “oxidized glutathione-based compound” and “glutathione-based compound” as being indefinite. However, the Patent Office has noted that the term is defined at page 9, lines 14-21, which depends on the term “derivative.” The Patent Office considers the term “derivative” to be indefinite, and thus rejects the terms “oxidized glutathione-based compound” and “glutathione-based compound” as being indefinite. The Applicants do not agree that the term “derivative” is indefinite, and believe the term to be defined in the specification, for example, on page 9, lines 18-20. However, in view of the amendments to claims 1, 27, 52, 77, and 80 that the glutathione-based compound is selected from the group consisting of a formula (as shown in the claims) and salts of the formula, it is believed that this rejection is now moot. Withdrawal of the rejection of these claims is therefore respectfully requested.

Claim 6 has been rejected for lacking proper antecedent basis for the term “the platinum material.” Claim 6 has been amended to depend from claim 5 to provide proper antecedent basis, as suggested by the Examiner.

Claims 72 and 74 have been rejected because the basis of the percentages is not clear. Claims 72 and 74 have been amended to clarify that the percentages are percentages by weight/volume.

Claim 77 has been rejected for not reciting a process step. Applicants have amended claim 77 to recite “administering the composite to a subject having a disease.”

Claim 96 has been rejected because the term “meningitis, sepsis” is not clear. Claim 96 has been amended to delete the term “, sepsis.”

The Examiner notes that in claim 48, the term “1 about” should be changed to “about 1,” and in claim 103, the term “selected from the group consisting of” should be deleted because only one disease is listed. These claims have been amended as requested.

For at least the above-mentioned reasons, it is respectfully requested that the rejection of claims 1-8, 26, 27, 30-35, 37-83, 96, 118-126, 135, and 136 under 35 U.S.C. §112, ¶2 be withdrawn.

Rejections under 35 U.S.C. §101

Claims 9-26, 36, 84-95, 97-117, 127-134, and 137 have been rejected under 35 U.S.C. §101 as claiming the same invention as that of claims 1, 9-14, 95-99, 15, 100, 16, 101, 17, 18, 20, 74, 102-104, 75-79, 105, 80, 81, 83-85, 106, 107, 86-91, 108-117, 124-127, 130-133, and 136, respectively, of Kozhemyakin, et al., U.S. Patent No. 6,312,734 (“Kozhemyakin”).

While Applicants do not concede that this rejection is correct, i.e., that the claims are drawn to identical subject matter as that of U.S. Patent No. 6,312,734, it is believed that the amendments made herein render this rejection moot. Accordingly, withdrawal of the rejection is respectfully requested.

Double Patenting Rejection

Claims 1-137 have been rejected under the judicially-created doctrine of obviousness-type double-patenting as being unpatentable over claims 1-136 of U.S. Patent No. 6,312,734. However, the Patent Office stated that a timely filed Terminal Disclaimer in compliance with 37 C.F.R. §1.321(c) may be used to overcome this rejection.

Without acceding to the correctness of this rejection, enclosed herewith is a Terminal Disclaimer with respect to U.S. Patent No. 6,312,734 in compliance with 37 C.F.R. §1.321(c) to overcome this rejection. In view of this Terminal Disclaimer, the claims as currently pending are believed to be allowable. Withdrawal of the rejection of these claims is therefore respectfully requested.

Rejections under 35 U.S.C. §102(b) in view of Kostic

Claims 1, 2, 26, and 77 have been rejected under 35 U.S.C. §102(b) as being anticipated by Kostic, et al., U.S. Patent No. 5,352,771 (“Kostic”). The Patent Office notes that Kostic “teaches combining K<sub>2</sub>[PdCl<sub>4</sub>], which corresponds to Applicants’ metal material, and oxidized

glutathione in equimolar amounts. Combining the two components results in the removal of the glycine residues from the oxidized glutathione.”

The Applicants submit that Kostic does not disclose a composite comprising an oxidized glutathione-based compound and a metal material. The dimeric structure comprising a  $\gamma$ -Glu-Cys linked by a disulfide bond is not an oxidized glutathione compound. The compound in Kostic is missing a glycine group (or salt or derivative) bonded to the cysteine. Thus, for at least these reasons, it is believed that claims 1 and 77 patentably distinguish over Kostic. Claims 2 and 26 depend from claim 1, and for at least these same reasons, these claims patentably over Kostic. It is believed that the rejection has been overcome, and it is respectfully requested that the rejection be withdrawn.

Rejections under 35 U.S.C. §102(e) in view of Hausheer

Claims 1-8, 27, 30-35, 48-50, 52-57, 59, 60, 68, 71-74, 77, 80-83, 120, 121, 125, 126, 135, and 136 have been rejected under 35 U.S.C. §102(e) as being anticipated by Hausheer, et al., U.S. Patent No. 5,789,000 (“Hausheer”).

Independent claims 1, 27, 52, 77, and 80 have been amended to recite that the oxidized glutathione-based compound is selected from the group consisting of a formula as shown in the claims, and salts of the formula. Hausheer does not disclose an oxidized glutathione-based compound, much less one defined by the formula as recited in amended claims 1, 27, 52, 77, and 80. Thus, for at least these reasons, it is believed that claims 1, 27, 52, 77, and 80 patentably distinguish over Hausheer. The remaining claims depend from these claims and for at least these same reasons, these dependent claims patentably distinguish over Hausheer. It is believed that the rejection has been overcome, and it is respectfully requested that the rejection be withdrawn.

Rejections under 35 U.S.C. §103(a) in view of Hausheer

Claims 69, 70, 75, 76, 78, 79, 118, 119, 122, 123, and 124 have been rejected under 35 U.S.C. §103(a) as being obvious over Hausheer.

As discussed above with respect to the rejections under §102(e), independent claims 1, 27, 52, 77, and 80 have been amended to recite that the oxidized glutathione-based compound is selected from the group consisting of a formula as shown in the claims, and salts of the formula.

As the claims rejected under §103(a) each depend, directly or indirectly, from claims 1, 27, 52, 77, or 80, it is believed that the claims rejected under §103(a) patentably distinguish over Hausheer for at least these reasons. Thus, it is respectfully requested that the rejection of these claims be withdrawn.

### CONCLUSION

In view of the foregoing remarks, this application should now be in condition for allowance. A notice to this effect is respectively requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicants hereby request any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,

By:

  
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